

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA

UNITED STATES OF AMERICA

v.

LELAND DAVIS

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Case No. 1:09-cr-105  
COLLIER / LEE

**ORDER**

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court: (1) grant Defendant's motion to withdraw his not guilty plea to Count One of the two-count Indictment (2) accept Defendant's plea of guilty to the lesser offense of the charge in Count One, that is of conspiracy to distribute 5 grams or more of a mixture and substance containing cocaine base ("crack"), a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(B); (3) adjudicate Defendant guilty of the lesser offense of the charge in Count One, that is of conspiracy to distribute 5 grams or more of a mixture and substance containing cocaine base ("crack"), a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(B); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find defendant shall remain in custody until sentencing in this matter [Doc. 19]. Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation [Doc. 19] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's motion to withdraw his not guilty plea to Count One of the Indictment

is **GRANTED**;

- (2) Defendant's plea of guilty to the lesser offense of the charge in Count One, that is of conspiracy to distribute 5 grams or more of a mixture and substance containing cocaine base ("crack"), a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(B) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of the lesser offense of the charge in Count One, that is of conspiracy to distribute 5 grams or more of a mixture and substance containing cocaine base ("crack"), a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(B);
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
- (5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Thursday, December 10, 2009 at 2:00 p.m.** before the Honorable Curtis L. Collier.

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**